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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/614,109
Filing Date: July 12, 2000
Appellant(s): STEVANOVSKI ET AL.

Mark D. Schneider
(Reg. No. 43,906)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 04, 2008 appealing from the Office action mailed February 28, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,220,501	LAWLOR	6-1993
4,485,300	PEIRCE	11-1984
5,953,710	FLEMING	9-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce in view of Lawlor and Fleming (US 5,953,710)

-*Re Claim 19, 23, 32, 34*, discloses a method of administering payment for obligations of a customer (see Pierce Abstract), Providing administrator 12 (server) having a database 14 (data storage means) and an administrative program (see Pierce, col. 4, 11. 50-65., col. 6, 11. 1-25), creating a customer account in the database (see Pierce, col. 4, 11. 50-65), transmitting a payment instruction from the administrator (see approval or denial; see col. 6, 11. 1-25).

Pierce fails to disclose that the purchase parameter is predefined by the customer. Fleming discloses methods of a credit card or debit card where purchase parameters may be predefined by the customer (parent) (see Fleming, Abstract, col. 3, lines 5-32; and col. 4, line 47 to col. 5, line 38). It would have been obvious for an artisan at the time of the invention to integrate the feature of Fleming into Pierce because Pierce would recognize the advantage of supervisory/parental control (customer control) of purchase parameters linked to certain limited use accounts (e.g. a

child's account). Pierce would have also recognized the advantage of supervisory usage in less secure environments to protect against over expenditure, loss, fraudulent and or misappropriate usage. Thus such a modification would be well within the ordinary skill in the art.

Pierce fails to disclose notifying the merchant (see col. 2, 11. 30-47, but fails to disclose a notification program transmitting a notice to the customer. Lawlor discloses a notifying the customer (see Lawlor. Abstract', col. 8, 11. 31+). It would have been obvious for an artisan of ordinary skill in the art at the time of the invention was made to conveniently transmit a message/notice to the customer to allow the customer to know whether or not a transaction has taken place in their account. Such a feature would have been an obvious expedient to one of ordinary skill in the art.

-Re Claims 20, 37, Pierce discloses a network, but fails to disclose that the notification is transmitted in real-time. Lawlor discloses that the notification is transmitted in real-time (see Lawlor, Abstract). It would have been obvious for an artisan to recognize the advantages of the latest real-time technology of Lawlor to provide fast and efficient transactions. Thus an artisan would have been motivated to integrate the notoriously old and well known real-time technology taught in Lawlor into Pierce to increase the speed and efficiency of transactions made with the Pierce invention. Thus such a modification would have been an obvious expedient well within the ordinary skill in the art.

-Re Claim 21, 33, Pierce fails discloses a customer interface. This is disclosed by Lawlor (see Lawlor, fig 1 , col. 17, 11. 43+). It would have been obvious to integrate the customer interface

of Lawlor into the Pierce to provide remote transactions from the customer. Such a modification would provide added convenience to the customer traveling abroad (see Pierce, col. 7, 11. 58+). Thus such a modification would have been an obvious expedient to one of ordinary skill in the art.

- Lawlor discloses notice to the customer during a predetermined time (see Lawlor Abstract)
- customer file/merchant file comprises identifying statistic (see Pierce, col. 8+, and col. 32+), *As in claims 24, 25, 28, 29*
- a purchase limit (see Pierce Abstract, and col. 3, 11. 21+), *As in claim 26, 27, 30, 35*

(10) Response to Argument

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

The Examiner also takes issue with the statement on page 7, where the appellant asserts that "The Examiner can satisfy the burden of showing obviousness of the combination *only* by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the

references,” because it seems the appellant would like to place more emphasis on the former requirement of objective teaching in the prior art rather than, as it has been applied here, to what the references in combination as a whole suggests to one ordinary skill in the art to combine the references. It is respectfully submitted to the appellant that in many, if not most, situations, there is neither a motivation to make the modification clearly articulated nor an evident lack of motivation. Rather the prior art references typically discloses elements or aspects of the claimed subject matter, but fail to specifically point the way toward combination, substitution or other modification needed to arrive at the invention. In these instances, a judgment must be made whether “a person of ordinary skill in the art would have sufficient motivation to combine the individual elements forming the claimed invention.” In this case, it is submitted that Pierce reference provides, similarly a method of administering payment for obligations of a customer (see Pierce Abstract), Providing administrator 12 (server) having a database 14 (data storage means) and an administrative program (see Pierce, col. 4, 11. 50-65., col. 6, 11. 1-25), creating a customer account in the database (see Pierce, col. 4, 11. 50-65), transmitting a payment instruction from the administrator (see approval or denial; see col. 6, 11. 1-25). It is submitted that Pierce is within the endeavor of the appellant’ invention where Pierce relates to an administration system and method for directing payment for financial obligations for electronic payment for purchases using electronic communication. It is submitted that the cardholder’s file provides parameters about the cardholder for the issuer to make a determination as to whether to approve or reject a transaction based upon the amount of the transaction and/or the identity of the customer (see Pierce, column 6, lines 1-25). In Pierce, the issuer can set purchase (or money spending) parameters to protect themselves against customers who overcharge their accounts,

make fraudulent transactions. Similarly, Fleming, in the parent-child situation, allows the parent to set up certain parameters to monitor their child's spending and protect from them from overcharging their accounts with limits of what the child can spend. In Fleming the parent acts in the same capacity as the card issuer in Pierce, that is, providing a supervisory function to protect against expenditure, loss, fraudulent and misappropriate usage of the card. It is maintained that in the same way Pierce would like to provide the authorization to regulate the type of request transmitted thereto from a merchant, Fleming's parent, being a customer and issuer to the child, would like to provide the authorization to regulate the type of request transmitted thereto from a merchant. It is submitted in the special case of a parent-child scenario, as contemplated by Fleming, it would be obvious for one of ordinary skill in the art to modify Pierce with predefined parental supervisory purchase parameters for a child to protect the card issuer and the parent accounts against over expenditure and fraudulent usage.

It is also maintained that an artisan at the time of the invention of Pierce would recognize the fact that with the implementation of the modifications of Fleming, Pierce would reduce the number of fraudulent transactions and increase the number of customers by providing more cards to a younger population.

In regards to Fleming not teaching the purchase parameter, the examiner takes the position that Fleming does provide a purchase limit in the form of an expenditure limits (see Fig. 4) based upon the credit limit (see column 8, line 42 to column 9, line 10, particularly column 8, lines 49-54). It is maintained that a credit limit may represent a dollar limit from the viewpoint of the amount of purchasing power the child has and/or child's ability to purchase certain goods and/or services. In regards to Lawlor not showing notification, it is respectfully submitted that

Lawlor was presented to show a banking system where the customer is notified by the system and how it would be obvious for one of ordinary skill in the art to transmit or notice to customer to know whether or not a transaction has taken place. Thus such a modification would provide a conventional feature in order for the customer (child and/or parent) to know as to whether the transaction was made or not.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Daniel S Felten/

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